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CONNECTICUT ADOPTS NEW LAW PROTECTING CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS

An Act Concerning the Confidentiality of Social Security Numbers

On June 11, 2008 Governor M. Jodi Rell signed into law an Act Concerning the Confidentiality of Social Security Numbers. The Act will go into effect on October 1, 2008.

The Act concerns the protection granted to consumer's personal data and expands the duty to protect such data. Employers are affected in multiple ways; first, in collecting the social security numbers and other personal information of their employees for employment verification; and second, in collecting personal data from their clients and/or consumers. Public Act 08-167, entitled "An Act Concerning the Confidentiality of Social Security Numbers," applies to anyone who collects "in the course of business" social security numbers, as well as, anyone "in possession of personal information of another." Employers collect social security numbers "in the course of business" for employment verification.

SAFEGUARDING PERSONAL DATA

Pursuant to the Act, any person in possession of personal information of another is mandated to safeguard that data and to destroy or make unreadable such data prior to disposal. The scope of the act is broad, and both individuals and businesses are implicated. Employers are most certainly affected, even if the only personal data they collect is that of their employees.

The Act defines personal information as information "capable of being associated with a particular individual through one or more identifiers, including but not limited to, a Social Security number, a driver's license number, a state identification card number, an account number, a credit or debit card number, a passport number, an alien registration number or a health insurance identification number, and does not include publicly available information that is lawfully made available to the general public from federal, state or local government records or widely distributed media." Persons or companies who violate Public Act 08-167 will be subject to a civil penalty of \$500 for each violation, up to a maximum of \$500,000 per event.

While the duty to protect personal information has expanded, the collection of such data has not been prohibited. The Act does not prevent social security numbers from being collected, used or

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released as required by state or federal law, nor is it prohibited that the numbers be used for internal verification or administrative purposes.

Connecticut General Statutes, § 42-470 already prohibits, (1) intentionally communicating or otherwise making available to the general public an individual's social security number; (2) printing anyone's social security number on a card that the person or entity must use to access the person or entity's products or services; (3) requiring anyone to transmit his or her Social Security number over the Internet, unless the connection is secure or the number is encrypted; or (4) requiring anyone to use his or her Social Security number to access an Internet website, unless a password or unique personal identification number or other authentication is also required to access it.

CREATION OF A PRIVACY PROTECTION POLICY

The Act further requires persons who collect Social Security numbers in the course of doing business to create and publicly publish or display a privacy protection policy. The policy must (1) protect the confidentiality of the numbers, (2) prohibit unlawful disclosure of the numbers, and (3) limit access to the numbers. Including the policy in an employee handbook may be beneficial. For employers collecting information from employees and consumers, it may be best to adopt separate policies in order to adequately safeguard and protect the data. While the Act indicates that the policy should be publicly displayed by posting on an internet web page, this requirement would most likely be satisfied by following the employer's usual practice for publishing and posting policies including bulletin board posting, posting on the company intranet or in an employee handbook. Of course, as with any new policy or policy change, distribution to employees via email or in person is recommended.

The text of the act can be found at <http://www.cga.ct.gov/2008/ACT/PA/2008PA-00167-R00HB-05658-PA.htm>.

SAMPLE POLICY

While Connecticut's new Act is one of the first of its kind, the state of Michigan passed a similar privacy act in 2005. Michigan's Social Security Number Privacy Act also required persons who obtain one (1) or more social security numbers in the ordinary course of business to create and publish a privacy policy. Please contact members of our Employment Practice Group if you would like advice on preparation of a privacy protection policy.

For further information on this case or any other employment related question, please contact Christopher L. Brigham of the Employment Practices Group at (203) 786-8310 or via email at cbrigham@uks.com or Dawn E. Alderucci of the Employment Practices Group at (860) 548-2621 or via email at dalderucci@uks.com.